

REMARKS/ARGUMENTS

Favorable reconsideration of this application is respectfully requested.

Claims 1-28 are pending in this application. Claims 1-28 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. patent 5,566,291 to Boulton et al. (herein “Boulton”) in view of U.S. patent 5,086,393 to Kerr et al. (herein “Kerr”).

Addressing the above-noted rejection, claims 1-28 are believed to clearly distinguish over Boulton in view of Kerr.

By the present response each of independent claims 1, 8, 15, and 22 is amended to further clarify features recited therein. Specifically, those claims now clarify that the monitoring operation operates to directly monitor “user selections of the plurality of operations of the interface by the user automatically upon start-up of the target application [means] without the user directly starting a monitoring program”. The claim amendments are believed to clarify the phrase “automatically upon start-up of the target application”. The above-noted subject matter is fully supported by the original specification, for example at page 20, line 3 et seq. As discussed in that portion of the specification, when a target application MB starts up, the MB object calls a function startMonitoring of a CMonitoringIF object 1305, which begins logging data corresponding to a user’s usage of a user interface 510. As clear from that description in the specification, such a start of monitoring is automatic upon start-up of the target application and does not require the user to directly execute a specific monitoring program, i.e. the user does not need to take any action besides starting up the target application to begin the monitoring.

The above-noted features are believed to clearly distinguish over the applied art.

First, applicants address the statement in the outstanding Advisory Action as to why the applied art is still being maintained against the pending claims. The Advisory Action of September 3, 2003 specifically states:

Applicant has argued the prior arts do not teach the feature “automatically upon start-up of the target application”[.] Applicant’s attention is directed to the lines “The system is capable of capturing human factors data, including screen images and associated keystrokes entered during a user session... and providing such data to a systems analyst, to determine usability of host computer resonant software on column 2, lines 5-12 [of Kerr]. It is clearly that the users do not need to tell the system to capture this operation or that one but the program automatically captures them.

Applicants respectfully submit that the above-noted basis for maintaining the outstanding rejection is misinterpreting the teachings in Kerr, particularly relative to the claimed invention.

As discussed in further detail below, it is clear that in Kerr the user must directly start a monitoring program to have the human factor data captured. Kerr does not teach or suggest any operation of automatically starting a monitoring program upon start-up of a target application without requiring a user to directly start a monitoring program.

Applicants also note that the disclosure in Kerr at column 2, lines 5-12, does not provide any indication or does not even allude to how the system therein starts the operation of capturing the human factor data. To understand how Kerr starts the operation of capturing human factor data attention is directed to Kerr at column 4, lines 3-5. At column 4, lines 3-5, Kerr specifically states “[t]he *user then accesses, by toggling*, the console 10 and begins to execute the SESSION program 12 which has been previously loaded in the console 10” (emphasis added). The above-noted passage makes it clear that the user must take an affirmative step, specifically toggling the console and thereby directly starting the monitoring program, to begin the execution of the SESSION program 12 (i.e., the monitoring program). Therefore, applicants respectfully submit that it is incorrect to note in the Office Action and Advisory Action that Kerr discloses an automatic monitoring, i.e. Kerr does not disclose a monitoring not requiring a user to directly start a monitoring program, i.e. not requiring any operation by user besides starting-up of a target application.

Further, the above-noted statement noted in the Advisory Action that "is clearly that the users do not need to tell the system to capture this operation or that one but the program automatically captures them," is unclear and appears unrelated to the claimed features. The above-noted claimed features are not directed to monitoring user selections, as applicants accept that Kerr discloses an automatic monitoring after the SESSION program 12 is started. However, the claimed feature noted above as not disclosed by Kerr is directed to the operation of *starting or initiating* the monitoring process. In the claims as currently written the user does not need to take any step to begin the monitoring process besides starting up a target application. In Kerr, in contrast to the claims, the user must specifically start the monitoring process by directly starting a monitoring program.

Further with respect to the above-noted feature the Office Action of July 2, 2003, appears to rely on the teachings in Kerr. Specifically, that Office Action states:

The difference between [Boulton et al.] and the claim is the step of automatically upon start-up of the target application. Kerr et al. shows the limitation at column 2, lines 15-13 and column 3, line 55 through column 4, line 10. The users do not need to tell the system to capture this operation or that one but the program automatically captures them. It would have been obvious to one of ordinary skill in the art, having the teachings of Boulton et al. and Kerr et al. before them at the time the invention was made to modify a method of monitoring taught by Boulton et al. to include the step of automatically monitoring user inputs of Kerr et al., with a motivation being to make efficient collecting, logging and communicating to a desired location by Internet email as taught by Kerr et al.<sup>1</sup>

As noted above, Kerr does not in fact teach the feature relied upon in the Office Action.

Moreover, the above-noted teachings in Kerr could not be applied to the teachings of Boulton as that would destroy the entire operation and objective of the device of Boulton.

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<sup>1</sup> Office Action of July 2, 2003, page 3, last 11 lines.

Boulton is specifically directed to a device that allows a user to generate feedback by entering a feedback mode and typing in feedback comments into a computer. Those feedback comments can then be sent to an appropriate party.<sup>2</sup> Boulton specifically discloses such an operation at, for example, step 286 in Figure 20. As noted in that step in Figure 20 the logic, for example of the CPU 12, checks in turn whether the ***user has selected*** to input feedback by checking the feedback icon of the learner interface.<sup>3</sup>

In such ways, it would be impossible to modify Boulton to automatically perform a feedback operation because in Boulton the user must type in the feedback data. There is simply nothing to be automatically fed back in the device of Boulton. Boulton requires, and could not operate without, the ***user initiating*** the feedback.

In such ways, modifying Boulton in view of Kerr as suggested in the Office Action could not have been suggested to one of ordinary skill in the art as that would render the device of Boulton inoperable for its intended purpose.

The outstanding Advisory Action has not even addressed this further point that modifying the teachings of Kerr in view of the teachings of Boulton as relied upon in the Office Action could not possibly have been suggested to one of ordinary skill in the art.

For such reasons, it is clear that the outstanding rejection is improper and that each of claims 1-28 patentably distinguishes over the applied art.

Further, many of the dependent claims are believed to further distinguish over the applied art in manners believed to still have not been recognized in the Office Action.

With respect to dependent claims 2, 9, 16, and 23, the noted portions in Boulton clearly do not teach or suggest such features. The Office Action first appears to cite Boulton at column 5, lines 8-18, and column 15, lines 40-50, as meeting such limitations.<sup>4</sup> Another

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<sup>2</sup> See, for example, the abstract of Boulton.

<sup>3</sup> See also, for example, Boulton at column 39, lines 56-64.

<sup>4</sup> Office Action of July 2, 2003, page 4, lines 6-8.

portion of the Office Action appears to cite Boulton at column 4, lines 47-55, and column 10, lines 3-20 and 35-46, as meeting such features.<sup>5</sup>

In any event, the teachings in Boulton significantly differ from the claimed features.

Merely because Boulton discloses that a user can input feedback while using different devices does not meet the claim limitations. Claim 2, in conjunction with claim 1 from which claim 2 depends, as an example, requires that the interface being monitored is a display screen of a software application. Again, what Boulton discloses as the monitoring is a user's typed in feedback, which clearly differs from automatically monitoring a user's selection of an interface of a software application.

Further, with respect to dependent claims 4, 11, 18, and 25, merely because a user can type in comments about an appliance does not indicate that Boulton discloses or suggests monitoring how a user utilizes an operation panel of the appliance. That is, in the above-noted claims, how a user utilizes an operation panel on an appliance is monitored. The teachings in Boulton that a user can type in his or her comments about an appliance does not at all even address automatic monitoring of how a user utilizes an operation panel of the appliance.

Further, with respect to dependent claims 6, 13, 27, a broad statement in Boulton that feedback data must be organized does not even approach addressing the positively recited features of those claims. The above-noted claims specifically indicate setting a number of sessions of a target application prior to communicating a log of monitored data. The broad statement in Boulton of organizing feedback data is not even similar to such features. It is completely unclear on what basis the outstanding Office Action can take a broad statement for organizing data and apply such features to the specific features recited in claims 6, 13, and 27.

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<sup>5</sup> Office Action of July 2, 2003, the sentence bridging pages 5 and 6.

Further, with respect to dependent claims 7, 14, 21, 28, the noted teachings of Boulton at column 9, lines 45-60, and column 39, lines 50-55, still do not even approach teaching sending the log of the monitored data by internet mail, and it is unclear on what basis the outstanding rejection is making such an assertion. The features in the above-noted claims clearly further distinguish over the teachings in Boulton.

In such ways, applicants respectfully submit that clearly each of the pending claims patentably distinguishes over the applied art.

As no other issues are pending in this application, it is respectfully submitted that the present application is now in condition for allowance, and it is hereby respectfully requested that this case be passed to issue.

Respectfully submitted,

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